IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5498 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.5125/2007 Dated 23/08/2007
CRIME NO.128/07 OF KASABA POLICE STATION, KOZHIKODE

.....

PETITIONER/ACCUSED

KAMALESH, S/O VASUDEVAN,
AGED 25 YEARS, THEKKEMANAPATT,
KOZHIKODE, NOW RESIDING AT
AMMATTUMETHEYIL HOUSE, CALICUT-24.

BY ADV. SRI.K.ANTONY JOSEPH

RESPONDENTS: COMPLAINANT

SUB INSPECTOR OF POLICE,
KASABA POLICE STATION, KOZHIKODE
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5498 of 2007

Dated this the 12th day of September 2007

O R D E R

Application for anticipatory bail. The petitioner is the eleventh accused. He, along with the co-accused, 14 in all, faces allegations inter alia under Section 376 I.P.C. The gravamen of the allegations is that the prosecutrix, a woman aged about 32 years, a home nurse by profession, was allegedly kidnapped and raped. I have already adverted to facts while considering the application for anticipatory bail by the 9th accused, one Dharmarajan alias Babu as per order dated 23/08/2007 in B.A.No.5125/2007. The said petitioner/accused was granted anticipatory bail subject to conditions.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that the petitioner herein can also be granted anticipatory bail on identical terms as were imposed on the co-accused by the order referred above. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail.

3. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 19/09/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 5 p.m on 20/09/2007 and 21/09/2007. During this period the investigating officer shall be at liberty to interrogate the petitioner in custody and to get the potency test conducted. Thereafter he shall appear before the investigating officer on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 19/09/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 19/09/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007